

5. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and 11 U.S.C. §§ 541 and 549. Relief is sought pursuant to 11 U.S.C. §§ 549 and 550.

SUMMARY OF THIS ADVERSARY PROCEEDING

6. The Trustee seeks to recover the sum of \$268,073.00 from Hirschfeld for an unauthorized post-petition payment for pre-petition services in violation of 11 U.S.C. § 549. The Trustee also seeks pre- and post-judgment interest on such amounts.

STATEMENT OF FACTS

7. Contractor Technology, Ltd. (the “Debtor”) filed a voluntary chapter 11 case on May 13, 2005 [Docket No. 1]. By Order entered June 23, 2005, the Court converted the case to a chapter 7 [Docket No. 151]. The Trustee is the duly appointed chapter 7 trustee in the case.

8. On May 9, 2005, the Debtor issued its check no. 3213 to Hirschfeld in the amount of \$268,073.00. A copy of the check is attached hereto as **Exhibit 1**.

9. The check was issued to Hirschfeld for the payment of a pre-petition invoice. The invoice is attached hereto as **Exhibit 2**. Check no. 3213 cleared the Debtor’s bank account on May 16, 2005. A copy of the Debtor’s bank statement is attached hereto as **Exhibit 3**.

10. This Court did not authorize the post-petition payment by the Debtor of pre-petition debt.

11. On September 30, 2005, the Trustee sent a letter to Hirschfeld demanding the return of the unauthorized post-petition payment. Hirschfeld has failed to return the payment.

RECOVERY OF POST-PETITION TRANSFERS

12. Section 549 of the Bankruptcy Code authorizes the Trustee to avoid a transfer of estate property that (i) occurs after the commencement of the case; and (ii) has not been authorized under Title 11 or by the Court.

13. The payment of \$268,073.00 to Hirschfeld was a transfer of property of the estate. The transfer occurred after the commencement of the case. The payment was not authorized by this Court or by Title 11. Under 11 U.S.C. §§ 549 and 550, the Trustee may avoid the transfer in its entirety and is entitled to a money judgment in the amount of the payment plus pre- and post-judgment interest.

REQUEST FOR RELIEF

Accordingly, the Trustee requests


- Judgment for the sum of \$268,073.00 against Hirschfeld;
- Pre- and post-judgment interest on all monetary amounts awarded hereunder; and
- Such other relief as is just.

Dated: May 9, 2006.

Respectfully submitted,

Porter & Hedges, L.L.P.

By: _____


David R. Jones
State Bar No. 00786001/S.D. Tex. No. 16082
Blake E. Rizzo
State Bar No. 24034073/S.D. Tex. No. 29684
1000 Main Street, 36th Floor
Houston, Texas 77002
(713) 226-6000
(713) 228-1331 (fax)
Counsel for the Trustee

CONTRACTOR TECHNOLOGY, LTD. 712-802-0700		Southern National Bank of Texas 1000 Southwest Freeway Sugar Land, TX 77478 281-266-7700 www.snb.com	
12734800014585 COMPANY MAIL		3213 3213	
PAY TO THE ORDER OF THE SUM OF TWO HUNDRED SIXTY EIGHT THOUSAND SEVENTY THREE DOLLARS		05/09/2005 *****288,073.00 DOLLARS	
HIRSCHFELD STEEL CO. INC. P.O. BOX 3768 SAN ANGELO, TX 76902		3213 \$268,073.00	
M003213M 41130152B712 23067851M		3213 \$268,073.00	
Jeritta M.		3213 \$268,073.00	





P.O. Box 3768, San Angelo, Texas 76902
 112 West 29th, San Angelo, Texas 76903
 325-486-4220
 325-486-4399 facsimile

*ph. See LR
 Re*

INVOICE

Contractor Technology, Inc. (CTI)
 3506 Cherry Street
 Houston, Texas, 77026

Invoice No.: 313385
 Invoice Date: 14-Feb-05
 Account No.: DA13057
 Estimate No.: 2

Re: NASA Road 1
 Harris County, Texas
 Project Number: 6
 Purchase Order No. 1

Date	3-24
Vendor I.D.	93
Equipment ID	
Supplier	
Subcontractor	
Volume	108439
Approval	

Customer Phone: 713-802-0700
 Customer Facsimile: 713-802-1888

Original Contract Amount		\$920,480.40	
Change Orders		\$0.00	
Revised Contract Amount			\$920,480.40
Total Completed to Date	70.26%	\$646,721.00	
Less: Freight	0.00%	\$0.00	
Total Earned Less Freight			\$646,721.00
Less Previous Application for Payment			\$378,648.00
Subtotal			\$268,073.00
Sales Tax	0.00%		\$0.00
Total Due Current Application			\$268,073.00

Remit to:
 Hirschfeld Steel Company, Inc.
 P.O. Box 3768
 San Angelo, Texas 76902

NATURE SAVER™ FAX MEMO 01618		Date	3-24	# of Pages	9
To	DEVONA	From	JIM HAWEL		
Co./Dept.		Co.			
Phone #		Phone #			
Fax #	713-802-1888	Fax #			

HSC internal accounting only:		Account Distribution:	State Rate:	0.00%
Sales Tax Location:	60300300	\$268,073.00	City Rate:	0.00%
Texas	41800300	\$0.00	County Rate:	0.00%
Gross Billing for Month		\$268,073.00	MTA Rate:	0.00%
Retainage		\$0.00		



APPLICATION AND CERTIFICATION FOR PAYMENT

AIA DOCUMENT G702 (Instructions on reverse side)

PAGE 1 OF 2 PAGE

TO (OWNER):

Contractor Technology, Inc. (CTI)
3506 Cherry Street
Houston, Texas, 77028

PROJECT:
PROJECT NAME
LOCATION

Project Number: 16
NASA Road 1
Harris County, Texas

FROM (CONTRACTOR):

VIA (ARCHITECT):
HIRSCHELD STEEL COMPANY, INC.
SAN ANGELO, TEXAS 76902

APPLICATION NO:
PERIOD TO:
ARCHITECT'S
PROJECT NO:

Distribution to:
☐ OWNER
☐ ARCHITECT
☐ CONTRACTOR

CONTRACT FOR:

Bridge Girders

CONTRACT DATE:

CONTRACTOR'S APPLICATION FOR PAYMENT

CHANGE ORDER SUMMARY

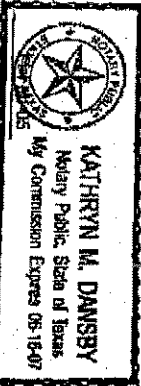
Change Orders approved in previous months by Owner	ADDITIONS	DEDUCTIONS
TOTAL		
Approved this Month		
Number	Date Approved	
TOTALS	\$0.00	\$0.00
Net change by Change Orders		\$0.00

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by the Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is not due.

CONTRACTOR:

James B. Hower, Contract Administrator

Date:



ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the above application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AIA DOCUMENT G702

APPLICATION AND CERTIFICATE FOR PAYMENT D MAY 1983 EDITION D AIA D 0 1883 THE AMERICAN INSTITUTE OF ARCHITECTS, 1735 NEW YORK AVENUE, N.W., WASHINGTON, D.C. 20006

Application is made for Payment, as shown below, in connection with the Contract, Continuation Sheet, AIA Document G703, is attached.

1. ORIGINAL CONTRACT SUM \$920,480.40
2. Net change by Change Orders \$0.00
3. CONTRACT SUM TO DATE (Line 1 + 2) \$920,480.40
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703) \$546,721.00
5. RETAINAGE
 - a. % of Completed Work (Column D + E on G703) \$0.00
 - b. % of Stored Material (Column F on G703) \$0.00

Total Retainage (Line 5a + 5b or Total in Column I of G703) \$0.00

6. TOTAL EARNED LESS RETAINAGE (Line 4 less Line 5 Total) \$373,759.40

7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 for prior Certificate) \$378,648.00

8. CURRENT PAYMENT DUE (Line 6 for prior Certificate) \$258,073.00

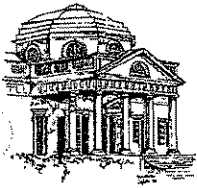
9. BALANCE TO FINISH, PLUS RETAINAGE (Line 3 less Line 6) \$273,759.40

By:

This certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under the Contract.

Date:

G702-1983



**Southern
National
Bank**
of Texas

14060 Southwest Freeway
Sugar Land, TX 77478
(281) 269-7200

ACCOUNT:
DOCUMENTS:

PAGE: 3
05/31/2005

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CONTRACTOR TECHNOLOGY LTD.

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COMML CORP ACCOUNT [REDACTED]

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CHECKS		
CHECK #..DATE.....AMOUNT	CHECK #..DATE.....AMOUNT	CHECK #..DATE.....AMOUNT
3084 05/12 400.00	3141*05/09 42,292.50	3196 05/11 741.00
3085*05/17 400.00	3143*05/12 9,168.09	3197 05/12 585.00
3087*05/11 400.00	3145 05/19 375.00	3198 05/11 731.25
3089 05/12 400.00	3146 05/16 584.72	3199 05/11 716.25
3090 05/18 500.00	3147 05/12 103,123.76	3200 05/12 161.00
3091 05/17 400.00	3148 05/12 5,113.15	3201 05/11 539.50
3092 05/12 500.00	3149 05/12 3,162.45	3202 05/12 442.00
3093 05/06 127,829.87	3150 05/13 11,038.80	3203 05/12 448.50
3094*05/06 7,509.39	3151 05/13 912.00	3204 05/10 22,952.00
3098 05/09 3,685.80	3152 05/16 5,128.11	3205 05/11 1,225.00
3099 05/09 6,805.96	3153 05/12 4,915.80	3206 05/11 6,281.32
3100 05/09 5,993.22	3154 05/13 3,718.46	3207 05/11 14,420.28
3101*05/13 34,845.00	3155*05/17 2,346.00	3208 05/18 864.52
3103 05/11 19,691.95	3157*05/20 474.00	3209 05/16 23,082.00
3104 05/12 98,996.15	3160 05/17 418.94	3210 05/11 400.00
3105 05/18 10,888.60	3161 05/20 1,049.72	3211*05/11 113,889.45
3106 05/16 65,247.31	3162*05/25 213.91	3213 05/16 268,073.00
3107*05/16 40,713.96	3164 05/20 6,948.05	3214 05/11 408,954.33
3109 05/11 83,214.36	3165*05/31 1,340.84	3215 05/16 43.93
3110 05/18 7,500.00	3168 05/20 2,496.07	3216 05/12 71,645.13
3111 05/19 139,097.00	3169 05/27 1,335.10	3217 05/16 3,240.00
3112*05/17 4,237.49	3170 05/18 3,101.25	3218 05/18 17,492.46
3114*05/20 15,073.77	3171 05/20 236.70	3219 05/16 156.82
3116*05/16 6,347.29	3172*05/19 31,048.12	3220 05/27 32.97
3118 05/09 4,966.40	3175 05/18 261.31	3221*05/27 149.01
3119 05/10 4,567.00	3176 05/20 290.92	3224*05/20 388.42
3120 05/16 5,412.19	3177 05/20 168.00	3226 05/17 48.50
3121*05/13 34,389.26	3178 05/26 11,099.49	3227 05/13 6,750.00
3123 05/16 98,072.97	3179*05/20 1,732.90	3228 05/25 821.01
3124 05/18 73,142.31	3183 05/12 547.50	3229*05/20 6,174.00
3125*05/13 252,712.50	3184 05/11 182.25	3231*05/20 2,901.03
3127 05/16 33,454.75	3185 05/12 610.00	3234 05/19 98.70
3128 05/16 136,127.57	3186 05/12 543.00	3235*05/19 157.41
3129 05/13 78.85	3187 05/13 546.00	3238*05/17 200.00
3130*05/11 46,472.01	3188 05/12 295.75	3240 05/17 190.00
3134 05/09 118.97	3189 05/11 627.50	3241 05/18 160.00
3135 05/09 17,666.52	3190 05/11 482.50	3242*05/31 78.72
3136 05/13 7,723.13	3191 05/12 295.75	3244 05/20 2,933.18
3137 05/11 73,150.14	3192 05/11 732.00	3245*05/25 32,544.46
3138 05/13 167.96	3193 05/12 620.75	3247 05/27 718.63
3139 05/09 14,327.20	3194 05/11 962.00	3248 05/20 1,207.86
3140 05/10 29,901.08	3195 05/12 796.25	3249 05/20 976.43

* * * C O N T I N U E D * * *

EXHIBIT

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